

UNITED STATES GOVERNMENT

Memorandum

DEPARTMENT OF TRANSPORTATION

FEDERAL HIGHWAY ADMINISTRATION

DATE: July 17, 1978

In reply
refer to: HOA-3

SUBJECT: INFORMATION: Bus Shelters
with Advertising

FROM : Executive Director

TO : All Regional Federal Highway Administrators
Regions 1-10 and 15

It has come to our attention that many local jurisdictions are seeking to negotiate agreements with private companies for the free installation and maintenance of bus shelters along highways in urbanized areas, in return for the granting of a franchise to sell advertising space on portions of the shelters. We recognize that this is an attractive proposition for local government, both from an economic and fiscal point of view, and in the interest of promoting public mass transportation.

Since some of the roadways along which these shelters would be installed are covered by Federal-aid highway project agreements, the provisions of 23 CFR 1.23 are applicable. In FHWA Order 1-1, the authority to make determinations under that regulation is delegated to the Regional Administrators (with further authority to redelegate to the Division Administrators). The purpose of this memorandum is to provide you with some guidance for the exercise of your discretion under 23 CFR 1.23.


In determining whether a facility installed on the right-of-way of a previously approved Federal-aid highway project is permissible, the mere presence of advertising, which is understood to be the source of profit for a private enterprise, would not always render impermissible an otherwise permissible use of the right-of-way for a highway or other public purpose. However, there should be satisfactory assurance that such use will not impair the highway or interfere with the free and safe flow of traffic thereon. The same advice would apply to the approval of new Federal-aid highway projects when such facilities are in existence on the right-of-way.

We have conducted an informal review of a bus shelter program which has been in effect in New York City for the last three years, and it is our opinion that the presence of shelters of this design, with their limited use for advertising, is not inconsistent with

the purposes of 23 CFR 1.23 in urbanized areas. Since the various jurisdictions interested in these programs should be allowed enough flexibility to resolve competing interests in light of their own particular local conditions, we see little need at the present to impose specific restrictions on the approval of these programs.

At this time, we only require specifically that State or local jurisdictions award bus shelter franchises on the basis of public invitations, and that equal access should be provided to all qualified advertisers at reasonable rates. Proposed bus shelter franchise agreements should be reviewed, however, to assure that adequate controls are provided over items such as, but not limited to, location (site specific), design, amount of advertising space, and advertising content.

The previous advice on this subject from the Office of Traffic Operations, provided in a memorandum dated April 26, 1978, and in an attachment thereto dealing with a Minnesota request, is rescinded and superseded by this memorandum. We are, however, interested in taking a continuing look at bus shelter programs as they are put into operation. Thus, those programs that are approved should be subject to continuing review and informational reports should be prepared for the Office of Traffic Operations. These reports should provide a basis for evaluating the approaches taken at local, State, and Federal levels to exercise control, and determining what appropriate Federal Highway Administration policy should be in this area.


L. P. Laum